

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of	)	<b>MAIL STOP NEW APPLICATION</b>
	)	
Hiroshi SANO et al.	)	
	)	
Application No.: (unassigned)	)	
	)	
Filed: March 18, 2004	)	
	)	
For: THEOBROMINE SYNTHASE	)	
POLYPEPTIDE OF COFFEE PLANT	)	
AND THE GENE ENCODING SAID	)	
POLYPEPTIDE	)	

**DECLARATION PURSUANT TO**  
**37 C.F.R. §§ 1.821-1.825**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

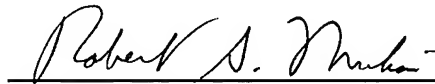
Sir:

I, Robert G. Mukai, declare as follows:

1. That the content of the paper and computer-readable copies of the Substitute Sequence Listing, submitted in accordance with 37 C.F.R. §1.821(c) and (e), respectively, are the same and in compliance with §1.821(f).
2. That the data contained in the Substitute Sequence Listing, both the paper and computer-readable copies, is the same as that originally-filed, yet now also contains SEQ ID NOs. 9-22. Support may be found for SEQ ID NOs. 9-22 at least at Paragraph 0018 of the Specification.
3. Accordingly, this submission does not include new matter.

I hereby declare that all statements made herein of my own knowledge are true and that all statements were made on information and belief and are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: March 18, 2004



Robert G. Mukai  
Registration No. 51,147

COPY

COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION

Attorney's Docket No.

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I BELIEVE I AM THE ORIGINAL, FIRST AND SOLE INVENTOR (if only one name is listed below) OR AN ORIGINAL, FIRST AND JOINT INVENTOR (if more than one name is listed below) OF THE SUBJECT MATTER WHICH IS CLAIMED AND FOR WHICH A PATENT IS SOUGHT ON THE INVENTION ENTITLED:

THEOBROMINE SYNTHASE POLYPEPTIDE OF COFFEE PLANT AND THE GENE ENCODING

SAID POLYPEPTIDE

the specification of which

(check one)

☐

is attached hereto;

☒

was filed on October 5, 2001 as

Application No. 09/971,020

and was amended on \_\_\_\_\_;  
(if applicable)

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE;

I ACKNOWLEDGE THE DUTY TO DISCLOSE TO THE OFFICE ALL INFORMATION KNOWN TO ME TO BE MATERIAL TO PATENTABILITY AS DEFINED IN TITLE 37, CODE OF FEDERAL REGULATIONS, Sec. 1.56 (as amended effective March 16, 1992);

I do not know and do not believe the said invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application; that said invention was not in public use or on sale in the United States of America more than one year prior to said application; that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than twelve months prior to said application;

I hereby claim foreign priority benefits under Title 35, United States Code Sec. 119 and/or Sec. 365 of any foreign application(s) for patent or inventor's certificate as indicated below and have also identified below any foreign application for patent or inventor's certificate on this invention having a filing date before that of the application(s) on which priority is claimed:

# COMBINED DECLARATION AND POWER OF ATTORNEY

Attorney's Docket No.

COUNTRY/INTERNATIONAL	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
Japan	2000-307,149	6, October, 2000	YES <sub>x</sub> NO__
			YES__ NO__
			YES__ NO__
			YES__ NO__
			YES__ NO__
			YES__ NO__
			YES__ NO__
			YES__ NO__

I hereby appoint the following attorneys and agent(s) to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, prosecute and to transact all business in connection with international applications directed to said invention:

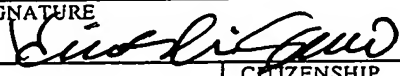
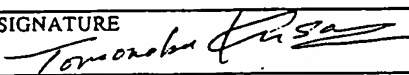
William L. Mathis	17,337	Ralph L. Freeland, Jr.	16,110	William C. Rowland	30,888
Peter H. Smolka	15,913	Robert G. Mukai	28,531	T. Gene Dillahunt	25,423
Robert S. Swecker	19,885	George A. Hovanec, Jr.	28,223	Anthony W. Shaw	30,104
Platon N. Mandros	22,124	James A. LaBarre	28,632	Patrick C. Keane	32,858
Benton S. Duffett, Jr.	22,030	E. Joseph Gess	28,510	Bruce J. Boggs, Jr.	32,344
Joseph R. Magnone	24,239	R. Danny Huntington	27,903	William H. Benz	25,952
Norman H. Stepno	22,716	Eric H. Weisblatt	30,505	Peter K. Skiff	31,917
Ronald L. Grudziecki	24,970	James W. Peterson	26,057	Richard J. McGrath	29,195
Frederick G. Michaud, Jr.	26,003	Teresa Stanek Rea	30,427	Matthew L. Schneider	32,814
Alan E. Kopecki	25,813	Robert E. Krebs	25,885	Michael G. Savage	32,596
Regis E. Slutter	26,999	Robert M. Schulman	31,196	Gerald F. Swiss	30,113
Samuel C. Miller, III	27,360				

and: \_\_\_\_\_

Address all correspondence to: **Robert G. Mukai**  
**BURNS, DOANE, SWECKER & MATHIS, L.L.P.**  
P.O. Box 1404  
Alexandria, Virginia 22313-1404

Address all telephone calls to: Robert G. Mukai at (703) 836-6620.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR	SIGNATURE	DATE
<u>Hiroshi SANO</u>		December 7, 2001
RESIDENCE	CITIZENSHIP	
<u>Ikoma City, Nara Pref., Japan</u>	<u>Japanese</u>	
POST OFFICE ADDRESS <u>2-7-15, Shikanodai-nishi, Ikoma City,</u> <u>Nara Pref., Japan</u>		
FULL NAME OF SECOND JOINT INVENTOR, IF ANY	SIGNATURE	DATE
<u>Tomonobu KUSANO</u>		December 7, 2001
RESIDENCE	CITIZENSHIP	
<u>Nara City, Nara Pref., Japan</u>	<u>Japanese</u>	
POST OFFICE ADDRESS <u>2-7-12-203, Tomiomoto-machi, Nara City,</u> <u>Nara Pref., Japan</u>		

COMBINED DECLARATION AND POWER OF ATTORNEY		Attorney's Docket No.	
FULL NAME OF THIRD JOINT INVENTOR, IF ANY Nozomu KOIZUMI		SIGNATURE <i>Nozomu Koizumi</i>	DATE December 7, 2001
RESIDENCE Ikoma City, Nara Pref., Japan		CITIZENSHIP Japanese	
POST OFFICE ADDRESS C505, 8916-5, Takayama-Cho, Ikoma City, Nara Pref., Japan			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF SEVENTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF EIGHTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF NINTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF TENTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			
FULL NAME OF ELEVENTH JOINT INVENTOR, IF ANY		SIGNATURE	DATE
RESIDENCE		CITIZENSHIP	
POST OFFICE ADDRESS			

COPY PATENT

ASSIGNMENT

WHEREAS, X/WE (I) Hiroshi SANO  
a Japanese citizen, residing at 2-7-15, Shikanodai-nishi, Ikoma City, Nara Pref., Japan  
(2) Tomonobu KUSANO  
a Japanese citizen, residing at 2-7-12-203, Tomimoto-machi, Nara City, Nara Pref., Japan  
(3) Nozomu KOIZUMI  
a Japanese citizen, residing at C505, 8916-5, Takayama-Cho, Ikoma City, Nara Pref., Japan  
(4) \_\_\_\_\_  
a \_\_\_\_\_ citizen, residing at \_\_\_\_\_  
(5) \_\_\_\_\_  
a \_\_\_\_\_ citizen, residing at \_\_\_\_\_  
(6) \_\_\_\_\_  
a \_\_\_\_\_ citizen, residing at \_\_\_\_\_  
(7) \_\_\_\_\_  
a \_\_\_\_\_ citizen, residing at \_\_\_\_\_  
(8) \_\_\_\_\_  
a \_\_\_\_\_ citizen, residing at \_\_\_\_\_

hereinafter referred to as Assignor (collectively if more than one inventor is listed above), have invented certain new and useful improvements in THEOBROMINE SYNTHASE POLYPEPTIDE OF COFFEE PLANT, the specification of which: AND THE GENE ENCODING SAID POLYPEPTIDE

- (a) ☐ was executed on even date herewith;  
(b) ☒ was filed on October 5, 2001 as ☐ Application No. 09/971,020 or ☐ Express Mail No., as Application No. not yet known \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable); or  
(c) ☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_ (if any) and/or under PCT Article 34 on \_\_\_\_\_ (if any).

AND WHEREAS, NARA INSTITUTE OF SCIENCE AND TECHNOLOGY  
with its principal place of business at 8916-5, Takayama-Cho, Ikoma City, Nara Pref., Japan

(hereinafter referred to as Assignee) desires to acquire the entire right, title, and interest in and to the said improvements with respect to the United States of America, its territories and possessions.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby acknowledges that it has sold, assigned, transferred and set over, and by these presents does hereby sell, assign, transfer and set over, unto Assignee, its successors, legal representatives and assigns, the entire right, title, and interest in the United States of America, and its territories and possessions in, to and under said improvements, and any Patent Applications in the United States of America and all divisions, renewals and continuations thereof, and all Patents of the United States of America which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions; and Assignor hereby authorizes and requests the Commissioner of Patents of the United States of America to issue all Patents for said improvements to Assignee, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

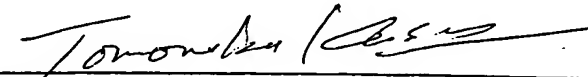
AND ASSIGNOR HEREBY covenants and agrees that it will communicate to Assignee, its successors, legal representatives and assigns, any facts known to it respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid Assignee, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in the United States of America.

IN TESTIMONY WHEREOF, Assignor intending to be legally bound has hereunto affixed its signature.

This 7th day of December, 2001

  
Signature of Hiroshi SANO

This 7th day of December, 2001

  
Signature of Tomonobu KUSANO

This 7th day of December, 2001

  
Signature of Nozomu KOIZUMI

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Signature of

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

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Signature of

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

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Signature of

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

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Signature of

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
Signature of